

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

No. 08-01789 (CGM)

SIPA Liquidation

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation of
Bernard L. Madoff Investment Securities LLC and
the Chapter 7 Estate of Bernard L. Madoff,

Plaintiff,

v.

NAIDOT & CO. and BESSEMER TRUST
COMPANY,

Defendants.

Adv. Pro. No. 11-02733 (CGM)

DEFENDANTS' JOINT MOTION TO DISMISS

Heather Lamberg (HLamberg@winston.com)

Christopher D. Man (CMan@winston.com)

WINSTON & STRAWN

1901 L Street, NW

Washington, DC 200036

(202) 282-5274 (phone)

(202) 282-5100 (fax)

PLEASE TAKE NOTICE, that pursuant to Federal Rule of Civil Procedure 12(b)(2) and 12(b)(6), Defendants Naidot & Co. (“Naidot”) and Bessemer Trust Company (“BTC”) move this Court for an Order to dismiss plaintiff Trustee of Bernard L. Madoff Investment Securities LLC (BLMIS)’s Complaint on grounds including that (1) the Trustee’s claims against BTC are barred by the statute of limitations; (2) the Plaintiff has failed to state a claim against BTC or Naidot under the mere conduit defense; and (3) the Plaintiff has failed to state a claim against BTC or Naidot under the 11 U.S.C. § 546(e) safe harbor. In support, Naidot and BTC submit its Memorandum of Law dated October 20, 2022, which is being filed contemporaneously with this motion.

New York, New York
Date: October 20, 2022

/s/ Heather Lamberg
Heather Lamberg (HLamberg@winston.com)
Christopher D. Man (CMan@winston.com)
WINSTON & STRAWN
1901 L Street, NW
Washington, DC 200036
(202) 282-5274 (phone)
(202) 282-5100 (fax)